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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

10 CHARMAINE GOODMAN MURPHY,
11 individually,
12 Plaintiff,
13 v.
14 WALMART, INC., a Foreign Corporation;
15 and DOES 1 through 20; inclusive,
Defendants.

Case No. 2:24-cv-01765

**STIPULATION AND PROPOSED ORDER
TO EXTEND DISCOVERY DEADLINES**

(FIRST REQUEST)

17 IT IS HEREBY STIPULATED AND AGREED, between the parties and their attorneys
18 of record, that **the current discovery deadlines to be extended as indicated on page 3,**
19 pursuant to Local Rule 26-1(b) and 26-3.

I. DISCOVERY COMPLETED TO DATE

22 1. The parties have conducted the FRCP 26.1 Early Case Conference.
23 2. Defendant produced its Lists of Witnesses and Documents on December 5, 2024.
24 3. Plaintiff produced her Lists of Witnesses and Documents on August 20, 2024,
25 4. Defendant propounded its First Set of Interrogatories (25 Interrogatories),
26 Requests for Production of Documents (32 Requests), and Requests for Admissions (26
27 Requests) to Plaintiff on December 30, 2024.
28 5. Plaintiff served her responses to First Set of Interrogatories (25 Interrogatories),

1 Requests for Production of Documents (32 Requests), and Requests for Admissions (26
 2 Requests) to Plaintiff on February 12, 2025.

3 6. Plaintiff served her First Set of Request for Production of Documents to
 4 Defendant (19 total) and First Set of Interrogatories to Defendant (20 total) on March 12, 2025.

5 7. Defendant served its Designation of Initial Experts on March 20, 2025.

6 8. Plaintiff served her Designation of Initial Experts on March 20, 2025.

7 9. Rule 35 Examination of Plaintiff.

8 10. Deposition of Plaintiff.

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II.

DISCOVERY THAT REMAINS TO BE COMPLETED

11 1. Deposition of Defendant Walmart, Inc. 30(b)(6) witness(es).

12 2. Rebuttal Expert Disclosure.

13 3. Deposition(s) of Plaintiff's treating physicians.

14 4. Deposition of other percipient witnesses.

15 5. Depositions of experts.

16 6. Issuing subpoenas to additional third-parties, including Plaintiff's medical
 17 providers (if any).

18 7. Additional written discovery (if necessary).

19 8. Any remaining discovery the parties deem relevant and necessary as discovery
 20 continues.

III.

WHY DISCOVERY CANNOT BE COMPLETED WITHIN THE TIME PROVIDED BY THE CURRENT SCHEDULING ORDER

24 A. **Good Cause**

25 LR 26-3 governs modifications or extension of the Discovery Plan and Scheduling Order.
 26 Any stipulation or motion to extend or modify that Discovery Plan and Scheduling Order must
 27 be made no later than twenty-one (21) days before the expiration of the subject deadline and
 28 must comply fully with LR 26-3. If the stipulation is made less than twenty-one (21) days before

1 the expiration of a deadline, the parties must show a good cause exist. A request made after the
 2 expiration of the subject deadline will not be granted unless the movant also demonstrates that
 3 the failure to act was the result of excusable neglect.

4 A request to extend unexpired deadlines in the scheduling order must be premised on a
 5 showing of good cause. Fed. R. Civ. P. 16(b)(4); Local Rule 26-3. The good cause analysis turns
 6 on whether the subject deadlines cannot reasonably be met despite the exercise of diligence.
 7 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

8 The parties agree and submit that the discovery cutoff and rebuttal expert disclosure
 9 deadline, cannot and could not have been met despite the exercise of diligence. Good cause
 10 exists for the following reasons: Defendant's counsel received notice the day of the current
 11 rebuttal expert disclosure deadline, April 21, 2025, that Defendant's medical expert, Dr. Rimoldi,
 12 would require additional time to prepare a rebuttal expert report for this case. Given the
 13 circumstances, Defendant requested if Plaintiff would be amenable to a brief extension of the
 14 remaining case deadlines, including the rebuttal expert disclosure deadline, to accommodate the
 15 production of Dr. Rimoldi's report. Due to the availability of counsel for the parties, the
 16 extension was not able to be agreed upon until after the deadline for rebuttal expert disclosures
 17 had passed. Once the extension had been agreed upon, the parties diligently worked to prepare
 18 the instant stipulation requesting a brief two week extension of the remaining case deadlines, as
 19 well as the rebuttal expert disclosure deadline, to ensure that all necessary discovery can be
 20 completed. Based on the foregoing, both Plaintiff and Defense counsel are requesting that the
 21 scheduling order dates including the rebuttal expert disclosure date be extended by 14 days.

22 **B. Excusable Neglect**

23 When a request for relief from case management deadlines is made after the deadline has
 24 expired, an additional showing of excusable neglect must be made. *Branch Banking & Trust Co.*
 25 v. *DMSI, LLC*, 871 F.3d 751, 764-65 (9th Cir. 2017); see also Local Rule 26-3. The excusable
 26 neglect "determination is at bottom an equitable one, taking account of all relevant circumstances
 27 surrounding the party's omission." *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507
 28 U.S. 380, 395 (1993). Factors courts may consider when evaluating excusable neglect include (1)

1 the danger of prejudice to the non-moving party, (2) the length of the delay and its potential
 2 impact on judicial proceedings, (3) the reason for the delay and, (4) whether the movant acted in
 3 good faith. *Id.* The movant bears the burden of establishing sufficient justification for
 4 modification of the case management deadlines. *See Desio v. State Farm Mut. Auto. Ins. Co.*,
 5 339 F.R.D 632, 638 (D. Nev. 2021) (citing *Singer v. Las Vegas Athl. Clubs*, 376 F. Supp. 3d
 6 1062, 1077 (D. Nev. 2019)); *see also Branch Banking*, 871 F.3d at 765 (affirming denial of
 7 request to modify case management deadlines because the movants had not established good
 8 cause or excusable neglect). Magistrate judges have broad discretion to manage the discovery
 9 process “in the interests of dispatch and fairness.” *V5 Techs. v. Switch, Ltd.*, 332 F.R.D. 356, 361
 10 (D. Nev. 2019); *see also Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002).

11 Addressing the first factor, the parties are jointly requesting the instant extension. As
 12 such, the parties submit that there is no danger of prejudice to either party if the requested
 13 extension is granted.

14 Addressing the second factor, the parties acknowledge the Court has broad discretion to
 15 manage the discovery process in the interest of dispatch and fairness. Regarding the requested
 16 extension, the parties note that discovery has not yet closed, and a trial date has not yet been set
 17 for this matter that would need to be continued. *See Bateman v. U.S. Postal Serv.*, 231 F.3d 1220,
 18 1225 (9th Cir. 2000) (noting discovery had only recently closed and there was no evidence trial
 19 would have been postponed for an inordinate amount of time when finding excusable neglect for
 20 an untimely opposition to a motion for summary judgment). As such, although the parties
 21 acknowledge the Court is in the best position to manage its schedule, the parties respectfully
 22 submit that the requested extension will not result in significant delay or substantial impact on
 23 judicial proceedings.

24 Addressing the third factor, the parties refer to the Court to the above discussion of good
 25 cause for the circumstances resulting in the initial requested extension. In addition, with respect
 26 to the delay in the parties’ submission of the instant request, the parties submit that the parties
 27 experienced a brief delay due to counsel’s availability in agreeing to the extension and preparing
 28 the instant stipulation. As such, the parties provide the above circumstances as the reason for not

1 filing the instant request prior to the rebuttal expert disclosure deadline. *See Pincay v. Andrews*,
 2 389 F.3d 853, 855 (9th Cir. 2004) (reversing denial of Rule 60(b) motion where delay was
 3 caused by paralegal miscalculating a filing deadline); *Bateman*, 231 F.3d at 1223 (finding a Rule
 4 60(b) motion should have been granted where delay caused by attorney needing to recover from
 5 jet lag and catch up on his mail for two weeks).

6 Addressing the fourth factor, the parties submit that the parties have acted in good faith in
 7 their efforts to resolve the additional time required for preparation of Defendant's rebuttal expert
 8 disclosures. Although the parties acknowledge the instant request is submitted after the rebuttal
 9 expert disclosure deadline, the parties submit this delay is not due to the bad faith of any party, or
 10 any intent to unnecessarily delay these proceedings. *See Bateman*, 231 F.3d at 1225 (finding
 11 excusable neglect despite a weak reason for delay due to lack of deviousness or willfulness).

12 The parties therefore respectfully submit that excusable neglect is present in the instant
 13 circumstance that resulted in the instant stipulation being submitted after the deadline for
 14 Rebuttal Expert Disclosures. Based on the good cause and excusable neglect outlined above,
 15 both Plaintiff and Defense counsel are requesting that the scheduling order dates including the
 16 rebuttal expert disclosure date be extended by about 14 days.

17 **IV.**

18 **PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY**

Discovery Deadline	Current Deadline	Proposed Deadline
Motion to Amend/Add Parties	February 18, 2025	February 18, 2025
Initial Expert Disclosures	March 20, 2020	March 20, 2025
All Rebuttal Expert Disclosures	April 21, 2025	May 6, 2025
Discovery Cut-Off Date	May 19, 2025	June 2, 2025
Dispositive Motions	June 18, 2025	July 2, 2025
Pretrial Order	July 18, 2025	August 1, 2025

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1 The parties represent this Stipulation is sought in good faith and not interposed for delay
2 or any other improper purpose.

3 DATED this 25th day of April, 2025.

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4 **RICHARD HARRIS LAW FIRM**

4 **TYSON & MENDES LLP**

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13 **IT IS SO ORDERED.**

14 
15 Hon. Maximilian D. Couvillier III
16 United States Magistrate Judge
17 Date: 4/29/2025